

4. Please state your full name, age, and education.

5. Are you presently under the influence of any intoxicating substances?

YES: _____ NO: ☒

Are you presently under the influence of any narcotics?

YES: _____ NO: ☒

Are you presently under the influence of any medicines or drugs of any kind that could affect your ability to think clearly, regardless of what that medicine is?

YES: _____ NO: ☒

Have you taken any medications within the last 48 hours?

YES: ☒ NO: _____

Lipitor

If so, what medications have you taken within the last 48 hours?

6. Are you currently under the care of a physician?

YES: _____ NO: ☒

Have you ever been treated for mental illness?

YES: _____ NO: ☒

Have you ever been treated for substance abuse?

YES: _____ NO: ☒

7. Noting that this is a Rule 11(c)(1)(C) plea from which you could withdraw if the court decides not to accept the bargain you have with the government, is your mind clear and do you understand that you are here today to enter a guilty plea that may not later be withdrawn for other reasons?

YES: ☒ NO: _____

8. Have you and your attorney reviewed the Bill of indictment and have you and your attorney discussed your decision to change your plea to guilty?

YES: ☒ NO: ☐

9. I am advised that you are pleading guilty to Counts 1, 2, and 3 as contained in the Bill of indictment.

Are you pleading guilty to those offenses?

YES: ☒ NO: ☐

The law requires that I advise you of the statutory authority for each offense, the essential elements of such offenses, and the maximum possible penalties. The elements of the offense or offense(s) to which you are pleading guilty are as follows:

Count One: Read Bill of indictment

Charges a Section 371 Conspiracy occurring from at least as early as August 1998 until at least November 2002, and provides that PHILLIP DENNIS MURPHY, the defendant and his co-conspirators, including Financial Institution A, CDR, Campbell and Marketer A, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Section 1343, and to defraud the United States of America and an agency thereof, to wit, the Internal Revenue Service ("IRS") of the United States Department of the Treasury, all in violation of Title 18, United States Code, Section 371.

Applicable Statutes:

18 U.S.C. § 371 - Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

18 U.S.C. § 1343 - Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television

communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Elements:

1. That two or more persons conspired to commit any offense against the United States, namely the offense of fraud by wire, radio, or television;
2. That you willfully became a member of such conspiracy;
3. That one or more of the conspirators, during the existence of the conspiracy, knowingly committed at least one of the overt acts described in the bill of indictment;
4. That such overt act(s) was/were knowingly committed at or about the time alleged in any effort to effect or accomplish some object or purpose of the conspiracy; and
5. That all such acts were done knowingly, intentionally, and illegally.

Maximum Penalty:

The maximum possible penalty for such conspiracy offense is 5 years imprisonment, a \$250,000 fine, or both, followed by a period of supervised release.

Count Two: Read Bill of Indictment

Charges a Section 1343 Wire Fraud, that from at least as early as August 1998 until at least November 2006, PHILLIP DENNIS MURPHY, the defendant, and other persons known and unknown, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud municipal issuers and to obtain money and property from these municipal issuers by means of false and fraudulent pretenses, representations, and promises, which scheme affected Financial Institution A and at least two other financial institutions, namely, a scheme to defraud municipal issuers, by causing municipal issuers to award investment agreements and other municipal finance contracts at artificially determined or suppressed levels, and further to deprive municipal issuers of the property right to control their assets by causing them to make economic decisions based on false and misleading information, and for the purpose of executing such scheme and artifice, and attempting to do so, did transmit and cause to be transmitted by means of wire, radio or television communication in interstate commerce, writings, signs, signals, pictures, or sounds, in violation of Title 18, United States Code, Section 1343.

Applicable Statute:

18 U.S.C. § 1343 - Fraud by wire, radio, or television. I have just read to you that statute and will not repeat it.

Elements:

1. That at the time described in the bill of indictment, you knowingly executed and attempted to execute a scheme or artifice;
2. That the scheme or artifice was designed and for the purpose of defrauding another or that the scheme or artifice was designed and for the purpose of obtaining money and or other property owned by another;
3. That such conduct was done by means of false and fraudulent pretenses, representations, or promises;
4. That in furtherance of the scheme or artifice, you caused to be transmitted in Interstate commerce a wire communication and/or communications consisting of writings, signs, signals, pictures, and/or sounds;
5. That such scheme affected Financial a Institution or Institutions; and
6. That you did all such acts knowingly, willfully, intentionally, and unlawfully.

Maximum Penalty:

The maximum possible penalty is a \$1,000,000.00 fine, 30 years imprisonment, followed by a period of supervised release.

Count Three: Read Bill of Indictment

Charges a Section 371 Conspiracy to Make False Entries in Bank Records, that from at least as early as January 1999 until at least May 2002, PHILLIP DENNIS MURPHY, the defendant, and his co-conspirators, including Zwerner, Marketer A and Marketer A-2, and other persons known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Section 1005, in violation of Title 18, United States Code, Section 371. That it was a part and an object of the conspiracy that PHILLIP DENNIS MURPHY, the defendant and his co-conspirators, including Zwerner, Campbell and Marketer A, and other persons known and unknown; being officers, directors, agents and employees of a Financial Institution A, did make and cause to be made entries in the books,

reports, and statements of such bank, for the purpose of deceiving and with the intent to deceive officers of such bank while knowing the entry or entries were false, in violation of Title 18, United States Code, Section 1005.

Applicable Statutes:

18 U.S.C. § 371: I have earlier read to you the statute for a Section 371 conspiracy and I will not again read it.

18 U.S.C § 1005 Bank entries, reports and transactions

Whoever makes any false entry in any book, report, or statement of such bank [any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act], company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System ... Shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

Elements:

1. That two or more persons conspired to commit any offense against the United States, namely the offense of making false entry in any book, report, or statement of a defined bank;
2. That you willfully became a member of such conspiracy;
3. That one or more of the conspirators, during the existence of the conspiracy, knowingly committed at least one of the overt acts described in the bill of indictment;
4. That such overt act(s) was/were knowingly committed at or about the time alleged in any effort to effect or accomplish some object or purpose of the conspiracy; and
5. That all such acts were done knowingly, intentionally, and illegally.

Maximum Penalty:

The maximum possible penalty for such conspiracy offense is 5 years imprisonment, a \$250,000 fine, or both, followed by a period of supervised release.

10. a) Do you fully understand the charges against you, including the maximum and minimum penalties?
- YES: ☒ NO: ☐
- b) Do you understand each element of the offense charged?
- YES: ☒ NO: ☐
- c) Do you understand that upon a plea of not guilty the government would be required to prove each element of the offense charged beyond a reasonable doubt?
- YES: ☒ NO: ☐
- d) Do you understand that the government would be required to prove that the unlawful act(s) were committed knowingly, willfully, intentionally, and unlawfully?
- YES: ☒ NO: ☐
11. If the court imposes an active term of imprisonment of more than one year, the court is required also to order a term of what is called "supervised release," and a term of supervised release may be ordered in other circumstances. This means that after a defendant is released from prison, there are certain terms and conditions they will be required to follow. The length of supervised release usually ranges from one to five years, but may be more or less than that for certain offenses. Do you understand the term "supervised release" as the court has explained them to you?
- YES: ☒ NO: ☐
12. Do you understand that if you violate the terms and conditions of supervised release, you could be returned to prison for an additional period of time?
- YES: ☒ NO: ☐
13. Do you understand that parole has been abolished in the federal system; and if you are sentenced to a term of imprisonment, you will not be released on parole?
- YES: ☒ NO: ☐

14. Have you and your attorney discussed how the Sentencing Guidelines may apply in your case?

YES: ✓ NO:

15. Do you understand how these Guidelines may apply to you?

YES: ✓ NO:

16. Do you understand that the court will not be bound by the Sentencing Guidelines but nonetheless must consult those Guidelines and take them into account when sentencing?

YES: ✓ NO:

17. Do you understand that if the court accepts the Plea, the sentence the Court could impose under this Rule 11(c)(1)(C) plea is limited to the range as set forth by the parties in the Plea Agreement and that if the court decided to depart from such agreed-to range you would have the right to withdraw from such Plea Agreement?

YES: ✓ NO:

18. Do you understand that the court will follow the procedural components of the Guidelines system, which means that the Probation Office will prepare a presentence report which contains Guidelines calculations and both you and the Government will have an opportunity to object to any alleged deficiencies in the report?

YES: ✓ NO:

19. Do you understand that in some circumstances you may receive a sentence that is different - that is, either higher or lower - than that called for by the Guidelines?

YES: ✓ NO:

20. [Eliminated based on Rule 11(c)(1)(C)]

21. Do you understand that the court has the discretion, in appropriate circumstances, to order you to make restitution to any victim of the offense. The court may also, in the appropriate circumstance, require you to pay the costs of your confinement in prison or costs of supervision or special investigative costs or all of these costs. The court may also require you to forfeit property involved in the offense. Do you understand these requirements as I have explained them to you?

YES: ✓ NO:

22. Do you understand you have a right to plead not guilty, to have a speedy trial before a judge and jury, to summons witnesses to testify in your behalf, and to confront witnesses against you?

YES: ✓ NO:

23. Do you understand that if you exercise your right to trial you would be entitled to the assistance of an attorney, that you would not be required to testify, that you would be presumed innocent, and the burden would be on the Government to prove your guilt beyond a reasonable doubt. Do you understand all of these rights?

YES: ✓ NO:

24. Do you understand that by entering a plea of guilty you forfeit and waive (or give up) your right to plead not guilty, to a trial by jury and at that trial the right to assistance of counsel, the right to confront and cross-examine witnesses against you, and the right against compelled self-incrimination or any other rights associated with a jury trial. Do you understand that by entering this plea of guilty you are waiving (or giving up) all of these rights. There will be no trial. If your plea of guilty is accepted, there will be one more hearing where the court will determine what sentence to impose.

Do you understand that?

YES: ✓ NO:

25. Are you, in fact, guilty of the count(s) in the Bill of indictment to which you have come to court today to plead guilty? That is, did you commit the act(s) described in count(s) 1 through 3 of the Bill of indictment?

YES: ✓ NO:

26. Is your plea of guilty voluntary and not the result of coercion, threats or promises?

YES: ✓ NO:

27. Do you understand that entering a plea of guilty to a felony charge may deprive you, at least for a time, of certain civil rights such as the right to vote, hold a public office, serve on a jury and possess a firearm?

YES: ✓ NO:

28. Is your plea of guilty the result of discussions between your attorney and the government?

YES: ☒ NO: ☐

29. Have you read (or had read to you) the Plea Agreement, has your attorney explained that agreement to you, and do you fully understand all terms of that agreement between you and the government?

YES: ☒ NO: ☐

30. Would the government summarize the essential terms of that agreement?

Do you understand those to be the essential terms of your Plea Agreement with the government?

YES: ☒ NO: ☐

Is this your signature on the Plea Agreement?

YES: ☒ NO: ☐

Factual Basis

31. Is there a factual basis for the plea? [here the government will make a proffer]

Do you agree that such constitutes a factual basis for your plea of guilty today?

YES: ☒ NO: ☐

Inquiry as to Satisfaction with the Assistance of Counsel

32. Is your willingness to plead guilty the result of prior discussions between you and your attorney?

YES: ☒ NO: ☐

32. Have you had ample time to discuss with your attorney any possible defenses that you may have to the charges and have you told your attorney everything that you want your attorney to know about this case?

YES: ✓ NO:

33. Are you entirely satisfied with the services of your attorney?

YES: ✓ NO:

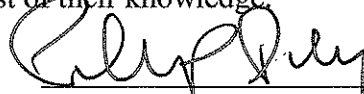
34. Are you telling the court that you know and understand fully what you are doing; that you have heard and understood all parts of this proceeding; and that you want the court to accept your plea of guilty?

YES: ✓ NO:

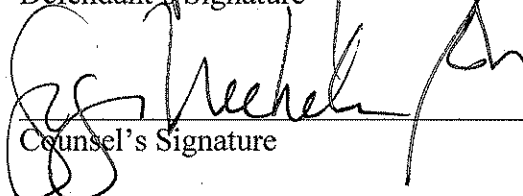
39. Do you have questions, statements, or comments to make about anything brought up or discussed in the course of the proceeding? If you do, I will be happy to try and answer your questions or I will be glad to hear any statements or comments that you want to make.

YES: NO: ✓

On advice and in the presence of counsel, the defendant respectfully requests the district court to accept his ~~other~~ guilty plea. By signing below, the defendant (and counsel) certify and affirm that the answers given to the questions propounded by the court, as recorded above and on the record, are true and accurate to the best of their knowledge.



Defendant's Signature



Counsel's Signature

Based upon the representations and answers given by the defendant (and counsel) in the foregoing Rule 11 proceeding, the court finds that the defendant's plea is knowingly and voluntarily made; and that the defendant understands the charges, potential penalties, and

consequences of said plea. Accordingly, the defendant's plea is hereby accepted. Having heard the factual basis as provided in open court, the court finds that there is a factual basis for the plea and hereby enters a Verdict of guilty as to the offense(s) to which defendant has pled.

Based upon the request of Defendant, the court hereby Orders an expedited Presentence Report.

SO ORDERED, this the 10th day of February 2014.



MAX O. COGBURN, JR.
UNITED STATES DISTRICT JUDGE